

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

BRIAN J. ELLISON,

Plaintiff,

v.

NATIONAL COLLEGIATE
STUDENT LOAN,

Defendant.

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Case No.

NOTICE OF REMOVAL

Please take notice that, pursuant to 28 U.S.C. §§ 1331, 1441, 1446 and 1367, defendant National Collegiate Student Loan (“NCSL”) hereby removes the above-captioned civil action from the District Court for the 43rd Judicial District (hereinafter referred to as “the State Court”) to the United States District Court for the Eastern District of Michigan. The removal of this civil action is proper, because:

1. NCSL is the only defendant in a civil action filed by plaintiff, Brian J. Ellison (“plaintiff”), in the District Court for the 43rd Judicial District, captioned as *Brian J. Ellison v. National Collegiate Student Loan*, Case No. 15MH059559GC (hereinafter the “State Court Action”).

2. Pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, Defendant removes the State Court Action to this Court, which is the federal judicial district in which the State Court Action is pending.

3. The Complaint in the State Court Action (hereinafter the "State Court Action Complaint") asserts claims under the federal Telephone Consumer Protection Act (TCPA), 47 U.S.C. § 227, *et seq.*

4. Removal of the State Court Action is proper under 28 U.S.C. § 1441. If the action had originally been brought in this Court, this Court would have original, federal question jurisdiction over plaintiff's TCPA claims pursuant to 28 U.S.C. § 1331.

5. Pursuant to 28 U.S.C. § 1446(b), Defendant has timely filed this Notice of Removal. NCSL was served with process on March 17, 2015. This Notice of Removal is being filed within 30 days from alleged service of the Complaint on Defendant.

6. As of the date of this filing, all named defendants that have been served with the State Court Action Complaint consent to removal of the State Court Action.

7. Attached hereto as **Exhibit A** and incorporated by reference as part of this Notice of Removal is a true and correct copy of the Summons and Complaint filed in the State Court Action. No further proceedings have taken place in the State Court Action.

8. A copy of this Notice of Removal is being served upon Plaintiff and filed concurrently with the District Court for the 43rd Judicial District.

9. The District Court for the 43rd Judicial District is located within the Eastern District of Michigan. Therefore, venue for purposes of removal is proper because the United States District Court for the Eastern District of Michigan embraces the place in which the removed action was pending. *See* 28 U.S.C. § 1441(a).

10. Removal of plaintiff's State Court Action is proper under 28 U.S.C. §§ 1441 and 1446.

WHEREFORE, Defendant, National Collegiate Student Loan, hereby removes the State Court Action to this Honorable Court.

Respectfully submitted,

COLLINS EINHORN FARRELL P.C.

/s/ Deborah Lujan

Deborah Lujan (P46990)

Attorneys for Defendant,

National Collegiate Student Loan

4000 Town Center, 9th Floor

Southfield, MI 48075

Telephone: (248) 351-5417

deborah.lujan@ceflawyers.com

Dated: April 14, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of April, 2015, a copy of the foregoing **Notice of Removal** was electronically filed with the Clerk of the Court, United States District Court for the Eastern District of Michigan and served via U.S. Mail upon the following:

Brian J. Ellison
26029 Delton Street
Madison Heights, MI 48071
Telephone: (586) 899-8766

Clerk of the Court
43rd Judicial District Court
200 W. 13 Mile
Madison Heights, MI 48071

Pro Se Plaintiff

Respectfully submitted,

COLLINS EINHORN FARRELL P.C.

/s/ Deborah Lujan

Deborah Lujan (P46990)
Attorneys for Defendant,
National Collegiate Student Loan
4000 Town Center, 9th Floor
Southfield, MI 48075
Telephone: (248) 351-5417
deborah.lujan@ceflawyers.com

EXHIBIT “A”

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

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STATE OF MICHIGAN 43RD JUDICIAL DISTRICT JUDICIAL CIRCUIT COUNTY PROBATE	SUMMONS AND COMPLAINT	CASE NO. 15MH 059559 GC
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Court address

200 W. 13 MILE, MADISON HEIGHTS, MI 48071

Court telephone no.

248-583-1800

Plaintiff's name(s), address(es), and telephone no(s).

BRIAN J. ELLISON
26029 DETON STREET
MADISON HEIGHTS, MI 48071
(586) 899-8766

Plaintiff's attorney, bar no., address, and telephone no.

ACTING IN PRO PER

Defendant's name(s), address(es), and telephone no(s).

NATIONAL COLLEGIATE
STUDENT LOAN
BY AND THROUGH IT'S ATTORNEYS
SHERMATA, ADAMS, + VON ALLEN P.C.
901 TOWER DRIVE #400
TROY, MI 48068
(248) 519-1700
(800) 451-7992

SUMMONS NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file a written answer with the court** and serve a copy on the other party or take other lawful action with the court (28 days if you were served by mail or you were served outside this state). (MCR 2.111(C))
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued 3-10-15	This summons expires 6-9-15	Court clerk J. Van Dusen
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*This summons is invalid unless served on or before its expiration date.

This document must be sealed by the seal of the court.

COMPLAINT Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.**Family Division Cases**

☒ There is no other pending or resolved action within the jurisdiction of the family division of circuit court involving the family or family members of the parties.

☐ An action within the jurisdiction of the family division of the circuit court involving the family or family members of the parties has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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General Civil Cases

☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.

☐ A civil action between these parties or other parties arising out of the transaction or occurrence as alleged in the complaint has been previously filed in _____ Court.

The action ☐ remains ☐ is no longer pending. The docket number and the judge assigned to the action are:

Docket no.	Judge	Bar no.
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VENUE

Plaintiff(s) residence (Include city, township, or village) MADISON HEIGHTS, MI	Defendant(s) residence (Include city, township, or village) 901 TOWER DRIVE, TROY, MI
Place where action arose or business conducted MADISON HEIGHTS, MI	

Date

3/10/2015

Signature of attorney/plaintiff

B. Walker

If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

STATE OF MICHIGAN
IN THE DISTRICT COURT FOR THE 43RD JUDICIAL DISTRICT

Brian Ellison

PLAINTIFF,

vs.

NATIONAL COLLEGIATE STUDENT LOAN (assignee unknown)

DEFENDANT(S).

Case No. _____

Honorable _____

THIS CASE ASSIGNED TO
JUDGE KEITH P. HUNT
43rd DISTRICT COURT
MADISON HEIGHTS DIVISION
200 WEST THIRTEEN MILE RD.
MADISON HEIGHTS, MI 48071
DIRECT ALL INQUIRIES REGARDING
THIS CASE TO THE ABOVE COURT.

COMPLAINT

Plaintiff, Brian Ellison, acting in pro per, for his Complaint in the above-captioned matter, states as follows:

1. Defendant NATIONAL COLLEGIATE STUDENT LOAN, by and through its attorney(s) SHERMATA, ADAMS & VON ALLMEN, P.C., continually serves collection notices to PLAINTIFF, Brian Ellison, at his current residence: 26029 DELTON STREET, MADISON HEIGHTS, MI 48071-3628, referencing FILE# 745012-002. Plaintiff resides in and all collection activities have been conducted based on this residence in the State of Michigan, vesting this Honorable Court with personal jurisdiction under MCL 600.701.
2. The amount in controversy in this action is within the subject matter jurisdiction of this Honorable Court under MCL 600.8301 and venue is proper under MCL 600.1621 via MCL 600.8312(5).
3. In accordance with section 813 (d), an action to enforce any liability created by the Fair Debt Collection Practices Act may be brought in any appropriate United States district court without regard to the amount in controversy.

COUNT 1 – VIOLATION OF FAIR DEBT COLLECTION PRACTICES ACT

4. Defendant(s) violated section 805 (3) on multiple occasions by contacting Plaintiff on a mobile phone (586) ***-9796, that was made known to the Defendant(s) to be the property of Plaintiff's employer, and to be used for the purposes of conducting official business.
5. Defendant(s) violated section 807 (2)(A) of the FDCPA, by falsely reporting to multiple credit rating agencies, on multiple occasions, that a debt was owed by the Plaintiff, when Plaintiff in fact had no responsibility with regards to the debt in question.
6. Plaintiff reasserts the above statement and includes that Defendant(s) violated section 807 (8), by threatening to continue to report and continuing to fraudulently report negatively to multiple credit rating agencies, despite the debt being disputed by Plaintiff, and Defendant(s) failing to substantiate any responsibility of Plaintiff with regards to the debt that was being reported.
7. Plaintiff has suffered real financial damage as a result of the fraudulent activity of the debt collection activities of the Defendant(s).

COUNT 2 – HARASSMENT

8. For this count Plaintiff incorporates by reference all assertions of fact contained in paragraphs one through 7 and further states:

43rd DISTRICT COURT

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U.S. DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

STATE OF MICHIGAN
IN THE DISTRICT COURT FOR THE 43RD JUDICIAL DISTRICT

9. Plaintiff continues to receive correspondence and phone calls from the Defendant(s) despite having no financial obligation to the debt in question.
10. Defendant(s) has repeatedly called Plaintiff's business and in each case was notified that the phone was the property of the Plaintiff's employer and was intended for business purposes.
11. Defendant(s) have failed to produce and documentation to substantiate their claim of Plaintiffs liability with regards to the subject debt, despite multiple requested for same by both telephone and in writing.
12. Plaintiff has no knowledge of responsibility with regards to this debt and believes the Defendant(s) are aware that the debt cannot be substantiated; yet continue to pursue the Plaintiff under false pretenses.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court enter Judgment in its favor against Defendant(s) in the amount of \$10,806.00 in real damages, plus \$10,000.00 in punitive damages, as well as interest and costs, and a statutory attorney fee. FURTHERMORE, Plaintiff respectfully requests that this Honorable Court enter an order to cease and desist any and all collection activities with regards to the above referenced account, to include future reassignment to another debt collector.

Respectfully Submitted,

By: 

Brian Ellison
26029 Delton Street
Madison Heights, MI 48071
(586) 899-8766

Dated: March 8, 2015

MAR 10 2015

ADMITTED
MAR 10 2015